

**REMARKS/ARGUMENTS**

The Applicant originally submitted Claims 1-25 in the application. In a previous response, the Applicant amended Claims 1, 8-9, 15 and 19-20. In the present preliminary amendment, the Applicant has amended Claims 1, 7-8, 15 and 18. No other claims have been amended, added or canceled. Accordingly, Claims 1-25 are currently pending in the application.

**I. Rejection of Claims 1-7, 10, 15-18 and 21 under 35 U.S.C. §102**

Previously, the Examiner rejected Claims 1-7, 10, 15-18 and 21 under 35 U.S.C. §102(b) as being anticipated by a paper written by Angela Sodan, *et al.*, entitled "Hierarchical Fuzzy Configuration of Implementation Strategies." The Applicant respectfully disagrees since Sodan does not teach each element of amended independent Claims 1 and 15. More specifically, Sodan does not teach independently applying fuzzy logic rules to each value of sets of fuzzified, network-related indicator values and generating a selection index for each of the sets based thereon as recited in amended independent Claims 1 and 15.

As discussed in the previous response, Sodan is directed to parallel/distributed processing and configuring dynamic implementation strategies applicable for communication or dynamic load balancing. (*See* page 250, left column, Abstract.) In the selection of strategies, Sodan uses fuzzy classifications for application and system characteristics in antecedents of rules and fuzzy preference values for selections in the consequences of the rules. (*See* page 252, left column, first full paragraph.) Sodan, however, does not independently apply the rules but instead uses multistage organization to apply the rules sequentially or hierarchically dependent on decisions. (*See* page 250, left column, Abstract; page 257, Figure 6; and page 257, Figure 7.) Thus, instead of independently

applying rules, Sodan discloses applying rules in an order dependent on a sequence or hierarchy. As such, Sodan also does not teach independently applying fuzzy logic rules to each value of sets of fuzzified, network-related indicator values since the application of the rules is dependent on results of previously applied rules according to a sequence or hierarchy. Accordingly, in Sodan, rules may not be applied to each value. Therefore, Sodan does not teach independently applying fuzzy logic rules nor independently applying fuzzy logic rules to each value of sets of fuzzified, network-related indicator values as recited in amended independent Claims 1 and 15.

Thus, Sodan does not disclose each and every element of independent Claims 1 and 15 and Claims dependent thereon. Sodan, therefore, does not anticipate Claims 1-7, 10, 15-18 and 21. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §102 rejection and allow issuance of Claims 1-7, 10, 15-18 and 21.

## **II. Rejection of Claims 8-9 and 19-20 under 35 U.S.C. §103**

Previously, the Examiner rejected Claims 8-9 and 19-20 under 35 U.S.C. §103(a) as being unpatentable over Sodan. As discussed above, Sodan does not teach independently applying fuzzy logic rules to each value of sets of fuzzified, network-related indicator values as recited in amended independent Claims 1 and 15. Additionally, Sodan does not suggest independently applying fuzzy logic rules to each value of sets of fuzzified, network-related indicator values since Sodan is directed to providing a rule-based approach, including a gradual selection preference in rules, that performs hierarchical fuzzy inference. (See page 250, column 1, Abstract.) This rule-based approach of Sodan does not independently apply rules and does not apply rules to each of the values as discussed above. Thus, Sodan does not teach or provide a suggestion for each element of amended

independent Claims 1 and 15. As such, Sodan does not teach or suggest each element of Claims 8-9 and 19-20 that depend on Claims 1 and 15, respectively. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §103(a) rejection of Claims 8-9 and 19-20 and allow issuance thereof.

Additionally, the Examiner has asserted that since Sodan is related to dynamic load balancing in a network environment, it is an obvious conclusion that the dynamic load balancing is performed in such a way to choose a least loaded server. (*See Examiner's Final Rejection, page 4.*) Even assuming this is true, Sodan provides no teaching or suggestion to select a server as recited in Claims 8-9 and 19-20. In other words, as argued above, Sodan does not teach or suggest selecting a server by applying the fuzzy logic rules and generating a selection index as recited in Claims 8-9 and 19-20 which include amended independent Claims 1 and 15.

### III. Rejection of Claims 11-14 and 22-25 under 35 U.S.C. §103

Previously, the Examiner rejected Claims 11-14 and 22-25 under 35 U.S.C. §103(a) as being unpatentable over Sodan in view of U.S. Patent No. 5,939,925 to Shibata, *et al.* As discussed above, Sodan does not teach or suggest independently applying fuzzy logic rules to each value of sets of fuzzified, network-related indicator values as recited in amended independent Claims 1 and 15.

Shibata is directed to provide a semiconductor operational circuit which is capable of conducting calculations with respect to analog vectors at high speed and with high accuracy. (*See column 1, lines 59-63.*) Shibata has not been cited to teach each element of independent Claims 1 and 15 but to teach the subject matter of dependent Claims 11-14 and 22-25. The cited combination, therefore, of Sodan and Shibata does not provide a *prima facie* case of obviousness of amended

independent Claims 1 and 15 and Claims 11-14 and 22-25 which depend thereon. Accordingly, the Applicant respectfully requests the Examiner to withdraw the §103 rejection of dependent Claims 11-14 and 22-25 and allow issuance thereof.


#### IV. Conclusion

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-25.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

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